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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/761,182

01/20/2004

Gary Lynn Harbin

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EXAMINER

FOREMAN, JONATHAN M

ART UNIT

PAPER NUMBER

3736

MAIL DATE

DELIVERY MODE

07/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/761,182	Applicant(s) HARBIN ET AL.	
	Examiner JONATHAN ML FOREMAN	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 25-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/20/04;8/22/05;10/5/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statements filed 8/30/04, 8/22/05 and 10/05/07 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

Election/Restrictions

1. Claims 25 – 45 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/3/08.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 - 8, 10 – 13, 15 and 19 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,720,789 to Hector et al.

In regard to claim 1 - 8, 10 – 13, 15 and 19 – 22, Hector et al. disclose a device including a plurality of board panels (Figure 1), each panel comprising a plurality of switches (Col. 2, lines 58 – 60) connected in parallel (Figure 3) electrically connected to a computing device (Col. 2, lines 60 – 63), each of the switches being in a first open position in an inactivated state; and a pad (42) associated with each of the board panels, the pad overlying the switches whereby when weight is applied to the pad, at least one of the switches shifts to a second closed position (Col. 2, lines 55 – 57). Hector et al. disclose a stimulus exhibitor comprising a monitor (14) operatively attached to the

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computing device. The board panels include connectors in that they are joined together. The board panels include a perimeter frame (vertical wall of 58) enclosing the switches. The frame must include an egress to allow for electrical connection of the sensors to the computing device. The frame includes a top cover (horizontal wall of 58) and a bottom cover (62). The top cover includes a cut-out portion, at least a portion of the pad fits in the cut-out portion (Figure 1). The switches return to the first position upon removal of the weight from the pad. Data is sent to the computing device when the switch returns to the first position.

4. Claims 1 - 8, 10 - 12, 16, 17 and 20 - 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,227,968 to Suzuki et al.

In regard to claim 1 - 8, 10 - 12, 16, 17 and 20 - 24, Suzuki et al. disclose a device including a plurality of board panels (Figure 4), each panel comprising a plurality of switches (23) electrically connected to a computing device, each of the switches being in a first open position in an inactivated state; and a pad (27) associated with each of the board panels, the pad overlying the switches whereby when weight is applied to the pad, at least one of the switches shifts to a second closed position (Col. 6, lines 44 - 53). Suzuki et al. disclose a stimulus exhibitor comprising a monitor (3) operatively attached to the computing device. The board panels include connectors in that they are joined together. The board panels include a perimeter frame (10b) enclosing the switches. Suzuki et al. disclose an upright frame including a base and a handle portion (30). The frame must include an egress to allow for electrical connection of the sensors to the computing device. The frame includes a shoulder (22a), the pad being adjacent the shoulder in the second position (Col. 5, lines 10 - 20). The switches return to the first position upon removal of the weight from the pad. Data is sent to the computing device when the switch returns to the first position (Col. 6, lines 53 - 61).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,227,968 to Suzuki et al. in view of U.S. Patent No. 6,792,661 to Fromme et al.

In regard to claim 9, Suzuki et al. shows a the board panels being connected (Figure 4), but fails to disclose the board panels including cooperative dovetail projections and recesses. Fromme et al. teach joining separate portions of a device together by cooperative dovetail projections and recesses as being one of a plurality of suitable joining methods (Col. 4, lines 32 – 37). The claim would have been obvious because the technique for improving a particular class of devices was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teaching of the technique for improvements in other situations. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the joining method as taught by Fromme et al. to join the pieces of the board panels disclosed by Suzuki et al. in that Fromme et al. teaches such a method as being one of a well known methods for joining materials.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,227,968 to Suzuki et al. in view of 4,720,789 to Hector et al.

In regard to claim 14, Hector et al. discloses a top and bottom panel, but fails to disclose the panels comprising aluminum. However, the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. *In re Lesbin*, 227 F.2d 197,

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125 USPQ 416 (CCPA 1960). One having ordinary skill in the art would have recognized aluminum as a suitable material for the top and bottom panels disclosed by Hector et al. because aluminum is both lightweight and strong.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,227,968 to Suzuki et al. in view of U.S. Patent No. 5,469,740 to French et al.

In regard to claim 18, Suzuki et al. disclose a pad but fail to disclose the pad including a non-skid surface. French et al. teach the use of a pad including a non-skid surface (Col. 10, lines 4 – 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the surface of the pad as disclosed by Suzuki et al. to include a non-skid surface as taught by French et al. to help reduce the possibility of injury due to slipping on the pad.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN ML FOREMAN whose telephone number is (571)272-4724.

The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736